

Message Text

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ACTION L-03

INFO OCT-01 EUR-25 NEA-10 IO-13 ISO-00 CAB-09 CIAE-00

COME-00 DODE-00 EB-11 INR-10 NSAE-00 RSC-01 FAA-00

DOT-00 SS-15 OIC-04 H-03 PRS-01 USIA-15 DRC-01 NSC-10

SR-02 ORM-03 AF-10 ARA-16 EA-11 /174 W

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FM AMEMBASSY ROME

TO SECSTATE WASHDC PRIORITY 0591

INFO AMEMBASSY LONDON

AEMEMBASSY BEIRUT 1444

AMEMBASSY MOSCOW

AMEMBASSY PARIS

AMEMBASSY TEL AVIV

AMCONSUL MONTREAL

US MISSION USUN NEW YORK 1665

UNCLAS ROME 9125

E.O. 11652: N/A

TAGS: ICAO, ETRN

SUBJ: ICAO AIR SECURITY CONFERENCE: 7TH REPORT OF USDEL

TO ICAO ASSEMBLY/DIPLOMATIC CONFERENCE - SEPT. 4

MONTREAL FOR US REP ICAO

PLEASE PASS TO: LITTELL/CAB; DRISCOLL/DOT; STEWART/FAA

1. AS AGREED AT PREVIOUS MEETING, COMMISSION OF THE WHOLE OF INTERNATIONAL CONFERENCE ON AIR LAW TOOK UP SOVIET PROPOSAL FOR SUPPLEMENTARY PROTOCOLS TO HAGUE AND MONTREAL CONVENTIONS. IN PRESENTING ITS PROPOSAL USSR EMPHASIZED THAT PROTOCOLS WOULD BE PURELY OPTIONAL AND THAT THEY WERE OPEN TO POSSIBLE AMENDMENTS AND LANGUAGE CHANGES.

2. ITALY, LATER SUPPORTED BY TURKEY, PROPOSED AMENDMENT,
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ACCEPTED IN SUBSTANCE BY USSR, "EXTRADITION SHALL BE SUBJECT

TO ALL CONDITIONS OF THE LAWS OF THE REQUESTED STATE, "TO CLARIFY THAT SUBSTANTIVE REFUGEE ASYLUM LAWS WOULD NOT BE SUPERSEDED BY EXTRADITION OBLIGATION. NICARAGUA PROPOSED AMENDMENT, "EACH CONTRACTION STATE UNDERTAKES TO RETURN TO THE STATE OF REGISTRATION OF THE AIRCRAFT OR TO THE STATE REFERRED TO IN PARAGRAPH...OFFENDERS WHO FOR ALL THE LEGAL EFFECTS OF THE PENAL ACTION COMMITTEED SHALL BE CONSIDERED AS COMMON OFFENDERS..." IN LINE WITH PROPOSALS OF PAN AMERICNA CONFERENCE. FRG PROPOSED AMENDMENT TO MAKE EXCEPTIONS FOR "OTHER CONDITIONS PROVIDED BY THE LAW OF THE REQUESTED STATE."

3. PROPOSAL SUPPORTED IN PRINCIPLE BY US (SEE STATEMENT TRANSMITTED SEPTTEL), FRANCE (LIMITED TO THE CONCEPT OF AN INCREASE IN THE POSSIBILITIES FOR EXTRADITION), CANADA, EMPHASIZING ALL DETERRENT EFFORTS INVOLVE SOME SACRIFICE IN SOVEREIGNTY), NETHERLANDS, CAMEROON (SHARE FRENCH VIEW), POLAND, NICARAGUA, GREECE AND SWEDEN. NIGERIA, CHILE, UGANDA, QATAR, CONGO, SAUDI ARABIA, KENYA, SENEGAL, UNITED ARAB ERATES, MADE STATEMENTS SUBSTANTIVELY IN OPPOSITION TO THE PROPOSAL.

4. IN REPLY TO QUESTIONS PUT DURING THE MORNING SESSION USSR REPLIED THAT THEY DID NOT INTEND A NARROWING OF THE SCOPE OF HAGUE AND MONTREAL CONVENTIONS BY THEIR PROPOSED PROTOCOL. THEY FELT THAT THE STATE OF AIRCRAFT REGISTRATION AS LESSEE NORMALLY WOULD BE THE STATE MOST LIKELY TO ASK FOR EXTRADITION BEING THE MOST INTERESTED STATE. THEY DECLINED THE NICARAGUAN PROPOSAL TO LIMIT THE PROTOCOL TO COMMON CRIMES SAYING THAT THEY PREFERRED THE EXISTING DEFINITION OF OFFENSES. THEY DID NOT FEEL THAT THE PROTOCOL WOULD INTERFERE WITH EXISTING BILATERAL OR MULTILATERAL AGREEMENTS. SOVIET PROPOSAL WOULD PROVIDE FOR EXTRADITION OF OFFENDERS WHEN SUBMISSION TO PROSECUTION WAS NOT OTHERWISE PROVIDED FOR. HOWEVER, EXTRADITION OF NATIONALS WOULD BE GOVERNED BY LOCAL LAW. FINALLY IN REPLY TO UAGANDA'S QUESTION AS TO NECESSITY OR AND LEGAL REASONING BEHIND PROPOSAL, SOVIETS STATED THAT NEW PROTOCOLS WOULD STRENGTHEN TWO EXISTING CONVENTIONS BY PROVIDING FOR MORE EFFECTIVE DETERRENCE.

5. JAMAICA INSISTED ON CLARIFICATION OF WHETHER THE PROPOSAL
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EXPRESSED ONLY A PREFERENCE FOR EXTRADITION, OR A MANDATORY OBLIGATION TO EXTRADITE IF NOT IN CONFLICT WITH LOCAL LAW. JAMAICA, SECONDED BY BARBADOS, ULTIMATELY PROPOSED COMMISSION VOTE ON THREE QUESTIONS OF PRINCIPLE:

(A) "SHOULD THE AMENDMENT TO THE HAGUE AND MONTREALS CONVENTIONS PRESERVE THE RIGHT OF THE STATE IN WHICH THE OFFENDER IS FOUND TO DECIDE IN ANY CASE WHETHER IT WILL SUBMIT

THE CASE TO THE COMPETENT AUTHORITIES FOR THE PURPOSE OF PRESECUTION AS AN ALTERNATIVE TO EXTRADITION?"

(B) "SHOULD THE AMENDMENT CONSTITUTE AN EXTRADITION TREATY IN RESPECT OF THE OFFENSE BETWEEN CONTRACTION STATES WHICH HAVE NO EXTRADITION TREATY BETWEEN THEM?"

(C) "SHOULD THE STATE OF REGISTRATION OF THE AIRCRAFT OF THE STATE REFERRED TO IN ARTICLE 4, PARAGRAPH 1(C) OF THE HAGUE CONVENTION AND ARTICLE 5, PARAGRAPH 1(D) OF THE MONTREAL CONVENTION HAVE PRIORITY RIGHTS TO REQUIRE OFFENDERS TO BE EXTRADITED TO THOSE STATES IN PREFERENCE TO BEING EXTRADITED TO OTHER STATES?"

NO DECISION TAKEN ON WHETHER TO TAKE SUCH VOTES ON PRINCIPLE, BUT PROPOSAL REMAINS ON TABLE FOR FURTHER ACTION IN LATER DISCUSSIONS.

6. BEFORE MEETING ADJORNED PRESIDENT OF CONFERENCE ENUMERATED THREE MAJOR PROBLEMS THAT HAD TO BE SOLVED, BASED ON JAMAICAN QUESTIONS. UGANDA REQUESTED A NEW SOVIET TEXT INCORPORATING AMENDMENTS OF OTHER DELEGATIONS. NORWAY PROPOSED A SMALL WORKING GROUP FOR THIS PURPOSE. AFTER A PROLONGED DISCUSSION IT WAS IMPLIED THAT USSR WOULD WORK INFORMALLY WITH OTHER DELEGATIONS IN ORDER DRAW UP NEW DOCUMENT TO BE CIRCULATED BEFORE NEXT MEETING OF COMMISSION.

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